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HOUSE BILL 170

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO TAXATION; AMENDING THE LOCAL HOSPITAL GROSS RECEIPTS TAX ACT TO PERMIT CERTAIN COUNTIES TO IMPOSE AND DEDICATE THE TAX AS MATCHING FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-20C-1 NMSA 1978 (being Laws 1991, Chapter 176, Section 1) is amended to read:

"7-20C-1. SHORT TITLE.--~~[Sections 1 through 15 of this act]~~ Chapter 7, Article 20C NMSA 1978 may be cited as the "Local Hospital Gross Receipts Tax Act"."

Section 2. Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS.--As used in the Local Hospital Gross Receipts Tax Act:

A. "county" means:

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1 (1) a class B county having a population of
2 less than twenty-five thousand according to the most recent
3 federal decennial census and having a net taxable value for
4 rate-setting purposes for the 1990 property tax year or any
5 subsequent year of more than two hundred fifty million dollars
6 (\$250,000,000);

7 (2) a class B county having a population of
8 less than forty-seven thousand but more than forty-four
9 thousand according to the 1990 federal decennial census and
10 having a net taxable value for rate-setting purposes for the
11 1992 property tax year of more than three hundred million
12 dollars (\$300,000,000) but less than six hundred million
13 dollars (\$600,000,000);

14 (3) a class B county having a population of
15 less than ten thousand according to the most recent federal
16 decennial census and having a net taxable value for rate-
17 setting purposes for the 1990 property tax year or any
18 subsequent year of more than one hundred million dollars
19 (\$100,000,000);

20 (4) a class B county having a population of
21 less than twenty-five thousand according to the 1990 federal
22 decennial census and having a net taxable value for rate-
23 setting purposes for the 1993 property tax year of more than
24 ninety-one million dollars (\$91,000,000) but less than one
25 hundred twenty-five million dollars (\$125,000,000);

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1 (5) a class B county having a population of
2 more than seventeen thousand but less than twenty thousand
3 according to the 1990 federal decennial census and having a net
4 taxable value for rate-setting purposes for the 1993 property
5 tax year of more than one hundred fifty-three million dollars
6 (\$153,000,000) but less than one hundred fifty-six million
7 dollars (\$156,000,000);

8 (6) a class B county having a population of
9 more than fifteen thousand according to the 1990 federal
10 decennial census and having a net taxable value for rate-
11 setting purposes for the 1996 property tax year of more than
12 one hundred fifty million dollars (\$150,000,000) but less than
13 one hundred seventy-five million dollars (\$175,000,000);

14 (7) an H class county;

15 (8) a class A county having a population of
16 less than one hundred fifteen thousand according to the 2000
17 federal decennial census or any subsequent federal decennial
18 census and having a net taxable value for rate-setting purposes
19 for the 2001 property tax year or any subsequent year of more
20 than three billion dollars (\$3,000,000,000); [~~or~~]

21 (9) a class B county having a population of
22 more than three thousand five hundred but less than ten
23 thousand five hundred according to the 2000 federal decennial
24 census or any subsequent federal decennial census and having a
25 net taxable value for rate-setting purposes for the 2005

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1 property tax year or any subsequent year of more than one
2 hundred million dollars (\$100,000,000) and less than one
3 hundred sixteen million five hundred thousand dollars
4 (\$116,500,000); or

5 (10) any county that is not a class A county
6 having a population of more than three hundred thousand
7 according to the most recent federal decennial census;

8 B. "department" means the taxation and revenue
9 department, the secretary of taxation and revenue or any
10 employee of the department exercising authority lawfully
11 delegated to that employee by the secretary;

12 C. "governing body" means the board of county
13 commissioners of a county;

14 D. "health care facilities contract" means an
15 agreement between a hospital or health clinic not owned by the
16 county and a county imposing the tax authorized by the Local
17 Hospital Gross Receipts Tax Act that obligates the county to
18 pay to the hospital revenue generated by the tax authorized in
19 that act as consideration for the agreement by the hospital or
20 health clinic to use the funds only for nonsectarian purposes
21 and to make health care services available for the benefit of
22 the county;

23 E. "hospital facility revenues" means all or a
24 portion of the revenues derived from a lease of a hospital
25 facility acquired, constructed or equipped pursuant to and

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1 operated in accordance with the Local Hospital Gross Receipts
2 Tax Act;

3 F. "local hospital gross receipts tax" means the
4 tax authorized to be imposed under the Local Hospital Gross
5 Receipts Tax Act;

6 G. "person" means an individual or any other legal
7 entity; and

8 H. "state gross receipts tax" means the gross
9 receipts tax imposed under the Gross Receipts and Compensating
10 Tax Act."

11 Section 3. Section 7-20C-3 NMSA 1978 (being Laws 1991,
12 Chapter 176, Section 3, as amended) is amended to read:

13 "7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO
14 IMPOSE--ORDINANCE REQUIREMENTS.--

15 A. A majority of the members elected to the
16 governing body of a county may enact an ordinance imposing an
17 excise tax on a person engaging in business in the county for
18 the privilege of engaging in business. This tax is to be
19 referred to as the "local hospital gross receipts tax". The
20 rate of the tax shall be:

21 (1) one-half percent of the gross receipts of
22 the person engaging in business if the tax is initially imposed
23 before January 1, 1993;

24 (2) one-eighth percent of the gross receipts
25 of the person engaging in business if the tax is initially

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1 imposed after January 1, 1993; ~~and~~

2 (3) a rate not to exceed one-half percent of
3 the gross receipts of the person engaging in business if the
4 tax is imposed after July 1, 1996 in a county described in
5 Paragraph (4), (6), (7) or (8) of Subsection A of Section
6 7-20C-2 NMSA 1978; provided the tax may be imposed in any
7 number of increments of one-eighth percent not to exceed an
8 aggregate rate of one-half percent of gross receipts; and

9 (4) a rate not to exceed one-fourth percent,
10 which may be imposed in increments of one-eighth percent, of
11 the gross receipts of the person engaging in business if the
12 tax is imposed after January 1, 2010 in a county described in
13 Paragraph (10) of Subsection A of Section 7-20C-2 NMSA 1978;
14 provided that the rate of tax authorized by this paragraph may
15 be imposed in addition to other local hospital gross receipts
16 tax rate increments authorized for a county by this section.

17 B. The local hospital gross receipts tax imposed:

18 (1) initially before January 1, 1993 shall be
19 imposed only once for the period necessary for payment of the
20 principal and interest on revenue bonds issued to accomplish
21 the purpose for which the revenue is dedicated, but the period
22 shall not exceed ten years from the effective date of the
23 ordinance imposing the tax; or

24 (2) after July 1, 1996 in a county described
25 in Paragraph (4) or (8) of Subsection A of Section 7-20C-2 NMSA

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1 1978 shall be imposed for the period necessary for payment of
2 the principal and interest on revenue bonds issued to
3 accomplish the purpose for which the revenue is dedicated, but
4 the period shall not exceed forty years from the effective date
5 of the ordinance imposing the tax; provided, however, that the
6 governing body of a county described in Paragraph (8) of
7 Subsection A of Section 7-20C-2 NMSA 1978 that has enacted an
8 ordinance imposing an increment of the local hospital gross
9 receipts tax pursuant to the provisions of this paragraph may,
10 prior to the date of the delayed repeal of the ordinance, enact
11 an ordinance to modify the period of imposition of the tax and
12 modify the purposes for which the revenue from the tax is
13 dedicated, consistent with one or more of the purposes
14 permitted pursuant to Paragraph (6) of Subsection D of this
15 section. The ordinance shall be subject to the election
16 requirement of Subsection E of this section.

17 C. No local hospital gross receipts tax authorized
18 in Subsection A of this section shall be imposed initially
19 after January 1, 1993 in a county described in Paragraph (2),
20 (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 unless:

21 (1) in a county described in Paragraph (2) of
22 Subsection A of Section 7-20C-2 NMSA 1978, the voters of the
23 county have approved the issuance of general obligation bonds
24 of the county sufficient to pay at least one-half of the costs
25 of the county hospital facility or county twenty-four-hour

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1 urgent care or emergency facility for which the local hospital
2 gross receipts tax revenues are dedicated, including the costs
3 of all acquisition, renovation and equipping of the facility;
4 or

5 (2) in a county described in Paragraph (3) or
6 (5) of Subsection A of Section 7-20C-2 NMSA 1978, the county
7 will not have in effect at the same time a county hospital
8 emergency gross receipts tax and the voters of the county have
9 approved the imposition of a property tax at a rate of one
10 dollar (\$1.00) on each one thousand dollars (\$1,000) of taxable
11 value of property in the county for the purpose of operation
12 and maintenance of a hospital owned by the county and operated
13 and maintained either by the county or by another party
14 pursuant to a lease with the county.

15 D. The governing body of a county enacting an
16 ordinance imposing a local hospital gross receipts tax shall
17 dedicate the revenue from the tax as provided in this
18 subsection. In any election held, the ballot shall clearly
19 state the purpose to which the revenue will be dedicated and
20 the revenue shall be used by the county for that purpose. The
21 revenue shall be dedicated as follows:

22 (1) prior to January 1, 1993, the governing
23 body, at the time of enacting an ordinance imposing the rate of
24 the tax authorized in Subsection A of this section, shall
25 dedicate the revenue for acquisition of land for and the

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1 design, construction, equipping and furnishing of a county
2 hospital facility to be operated by the county or operated and
3 maintained by another party pursuant to a lease with the
4 county;

5 (2) if the governing body of a county
6 described in Paragraph (2), (3) or (5) of Subsection A of
7 Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing
8 the tax after July 1, 1993, the governing body shall dedicate
9 the revenue for acquisition, renovation and equipping of a
10 building for a county hospital facility or a county twenty-
11 four-hour urgent care or emergency facility or for operation
12 and maintenance of that facility, whether operated and
13 maintained by the county or by another party pursuant to a
14 lease or management contract with the county, for the period of
15 time the tax is imposed not to exceed ten years;

16 (3) if the governing body of a county
17 described in Paragraph (4) or (8) of Subsection A of Section
18 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax
19 after July 1, 1995, the governing body shall dedicate the
20 revenue for acquisition of land or buildings for and the
21 renovation, design, construction, equipping or furnishing of a
22 county hospital facility or health clinic to be operated by the
23 county or operated and maintained by another party pursuant to
24 a health care facilities contract, lease or management contract
25 with the county; provided, however, that the governing body of

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1 a county described in Paragraph (8) of Subsection A of Section
2 7-20C-2 NMSA 1978 that has imposed an increment of the local
3 hospital gross receipts tax prior to January 1, 2009 and
4 dedicated the revenue from that imposition pursuant to the
5 provisions of this paragraph may, prior to the date of the
6 delayed repeal of the ordinance imposing the increment of the
7 tax, enact an ordinance to modify the period of imposition of
8 the tax and modify the purposes for which the revenue from the
9 tax is dedicated, consistent with one or more of the purposes
10 permitted pursuant to Paragraph (6) of this subsection. The
11 ordinance shall be subject to the election requirement of
12 Subsection E of this section;

13 (4) if the governing body of a county
14 described in Paragraph (6) or (9) of Subsection A of Section
15 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax
16 after July 1, 1997, the governing body shall dedicate the
17 revenue for either or a combination of the following:

18 (a) acquisition of land or buildings for
19 and the design, construction, renovation, equipping or
20 furnishing of a hospital facility or health clinic owned by the
21 county or a hospital or health clinic with which the county has
22 entered into a health care facilities contract lease or
23 management contract; or

24 (b) operations and maintenance of a
25 hospital or health clinic owned by the county or a hospital or

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1 a health clinic with which the county has entered into a health
2 care facilities contract;

3 (5) if the governing body of a county
4 described in Paragraph (7) of Subsection A of Section 7-20C-2
5 NMSA 1978 is enacting the ordinance imposing the tax after
6 January 1, 2002, the governing body shall dedicate the revenue
7 for acquisition, lease, renovation or equipping of a hospital
8 facility or for operation and maintenance of that facility,
9 whether operated and maintained by the county or by another
10 party pursuant to a health care facilities contract, lease or
11 management contract with the county; ~~and~~

12 (6) if the governing body of a county
13 described in Paragraph (8) of Subsection A of Section 7-20C-2
14 NMSA 1978 is enacting the ordinance imposing one or more
15 increments of the tax after January 1, 2009, the governing body
16 shall dedicate the revenue for either or both of the following:

17 (a) payment of the principal and
18 interest on revenue bonds, including refunding bonds, issued
19 for acquisition of land or buildings for and the renovation,
20 design, construction, equipping or furnishing of hospital
21 facilities or health care clinic facilities to be operated by
22 the county or operated and maintained by another party pursuant
23 to a health care facilities contract, lease or management
24 contract with the county; and

25 (b) use as matching funds for state or

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1 federal programs benefiting the facilities; and
2 (7) if the governing body of a county
3 described in Paragraph (10) of Subsection A of Section 7-20C-2
4 NMSA 1978 is enacting an ordinance imposing an increment of the
5 tax authorized in Paragraph (4) of Subsection A of this
6 section, the governing body shall dedicate the revenue as
7 matching funds for state or federal programs benefiting a
8 hospital that is located in the county and is designated as a
9 sole community provider by the centers for medicare and
10 medicaid services or benefiting patient care at the hospital.

11 E. The ordinance shall not go into effect until
12 after an election is held and a simple majority of the
13 qualified electors of the county voting in the election vote in
14 favor of imposing the local hospital gross receipts tax and, in
15 the case of a county described in Paragraph (3) or (5) of
16 Subsection A of Section 7-20C-2 NMSA 1978, also vote in favor
17 of a property tax at a rate of one dollar (\$1.00) for each one
18 thousand dollars (\$1,000) of taxable value of property in the
19 county. The governing body shall adopt a resolution calling
20 for an election within seventy-five days of the date the
21 ordinance is adopted on the question of imposing the tax. The
22 question may be submitted to the qualified electors and voted
23 on as a separate question in a general election or in any
24 special election called for that purpose by the governing body.
25 A special election on the question shall be called, held,

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1 conducted and canvassed in substantially the same manner as
2 provided by law for general elections. If the question of
3 imposing a local hospital gross receipts tax fails or if the
4 question of imposing both a local hospital gross receipts tax
5 and a property tax fails, the governing body shall not again
6 propose a local hospital gross receipts tax for a period of one
7 year after the election. A certified copy of any ordinance
8 imposing a local hospital gross receipts tax shall be mailed to
9 the department within five days after the ordinance is adopted
10 in an election called for that purpose.

11 F. An ordinance enacted pursuant to the provisions
12 of Subsection A of this section shall include an effective date
13 of either July 1 or January 1, whichever date occurs first
14 after the expiration of at least three months from the date the
15 ordinance is approved by the electorate.

16 G. An ordinance repealed under the provisions of
17 the Local Hospital Gross Receipts Tax Act shall be repealed
18 effective on either July 1 or January 1.

19 H. As used in this section, "taxable value of
20 property" means the sum of:

21 (1) the net taxable value, as that term is
22 defined in the Property Tax Code, of property subject to
23 taxation under the Property Tax Code;

24 (2) the assessed value of products, as those
25 terms are defined in the Oil and Gas Ad Valorem Production Tax

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1 Act;

2 (3) the assessed value of equipment, as those
3 terms are defined in the Oil and Gas Production Equipment Ad
4 Valorem Tax Act; and

5 (4) the taxable value of copper mineral
6 property, as those terms are defined in the Copper Production
7 Ad Valorem Tax Act, subject to taxation under the Copper
8 Production Ad Valorem Tax Act."

9 Section 4. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2010.

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